



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Seventh day of October Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice S.NAGAMUTHU
and

The Hon`ble Mr.Justice M.V.MURALIDARAN

CRL MP(MD) Nos.9055 and 9056 of 2016

IN

CRL A(MD) No.306 of 2016

ARUMUGAM

... PETITIONER/APPELLANT/ACCUSED NO.1
IN CRL MP(MD) No.9055 of 2016

DASS @ GANESAN

... PETITIONER/APPELLANT/ACCUSED NO.2
IN CRL MP(MD) No.9056 of 2016

Vs

STATE REP.BY ,
THE INSPECTOR OF POLICE,
SILAIMAN POLICE STATION,
CRIME NO. 338 OF 2010 ,
MADURAI DISTRICT.

... RESPONDENT/RESPONDENT/COMPLAINANT
IN BOTH THE PETITIONS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner /Appellant / Accused in SC NO. 88 of 2013 dated 12.08.2016 on the file of the Learned IV Additional Sessions Judge, Madurai and enlarge him on bail pending disposal of the appeal.

Prayer in CRL MP(MD). 9056/ 2016 :

To suspend the sentence imposed on the petitioner / Appellant /Accused in SC NO. 88 of 2013 dated 12.08.2016 on the file of the Learned IV Additional Sessions Judge, Madurai and enlarge him on bail pending disposal of the appeal.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.K.SAMIDURAI, Advocate for the petitioner in both the petitions and of MR.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondents in both the petitions the court made the following order:-

[Order of the Court was made by **S.NAGAMUTHU, J.**]

The petitioners are the Accused Nos.1 and 2 in S.C.No.88 of 2013 on the file of the learned Fourth Additional District and Sessions Judge, Madurai. Accused No.1 has been found guilty under Sections 302 and 201 of the Indian Penal Code and Accused No.2 has



been found guilty under Section 302 r/w 34 of the Indian Penal Code. The maximum punishment imposed upon them is imprisonment for life. Challenging the said conviction and sentence, the petitioners have come up with the present Criminal Appeal. Pending appeal, they seek suspension of sentence.

2. We have heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing on behalf of the State. We have also perused the records carefully.

3. According to the case of the prosecution, A-1 had illicit intimacy with A-4. A-4 is none else than the wife of the deceased. Since the deceased objected to the same, according to the prosecution case, A-4 instigated A-1 and A-1 with the help of A-2 and A-3, committed the murder of the deceased.

4. The learned counsel for the petitioners would point out that the Trial Court itself has disbelieved the factum of instigation by A-4. We have gone through the judgment of the Trial Court. The Trial Court has held that there was illicit intimacy between A-1 and A-4. But A-4 did not instigate A-1 to commit murder, but because of that illicit relationship, which turned up the motive, A-1 along with A-2 and A-3 had killed the deceased. In order to prove the same, there is overwhelming evidence. The learned counsel for the petitioners would submit that original complaint has been suppressed. It is a matter to be considered at the stage of final hearing of the case. At this stage, we cannot scrupulously analyze the entire evidence on record. A perusal of the judgment and other records available would go to show that it is not a fit case to suspend the sentence. The petitions are, therefore, dismissed.

sd/-
07/10/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE IV ADDITIONAL SESSIONS JUDGE, MADURAI.
- 2 THE INSPECTOR OF POLICE,
SILAIMAN POLICE STATION, MADURAI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECTUOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 4 THE SUPERINTENDENT , CENTRAL PRISON, MADURAI.

ORDER
IN

CRL MP(MD) Nos.9055 and 9056 of 2016
IN

CRL A(MD) No.306 of 2016
Date :07/10/2016